

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALVIN MAURICE HAILEY,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	NO. 19-2171
	:	
MONTGOMERY COUNTY	:	
CORRECTIONAL FACILITY, <i>et al.</i>,	:	
Defendants.	:	

ORDER

AND NOW, this 23rd day of May 2019, upon considering Plaintiff's Motion for leave to proceed *in forma pauperis* (ECF Doc. No. 1), his Prisoner Trust Fund Account Statement (ECF Doc. No. 3), his *pro se* Complaint (ECF Doc. No. 2), and for reasons in the accompanying Memorandum, it is **ORDERED**:

1. Plaintiff's Motion for leave to proceed *in forma pauperis* (ECF Doc. No. 1) is **GRANTED** under 28 U.S.C. § 1915;

2. Alvin Maurice Hailey, MQ-4259, shall pay the full filing fee of \$350 in installments under 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Superintendent of SCI Somerset or other appropriate official shall assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Hailey's inmate account; or (b) the average monthly balance in Mr. Hailey's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed under this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Mr. Hailey's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the

Clerk of Court equaling 20% of the preceding month's income credited to Mr. Hailey's inmate account until the fees are paid. Each payment shall reference the docket number for this case;

3. The Clerk of Court shall send a copy of this Order to the Superintendent of SCI Somerset;

4. The Complaint (ECF Doc. No. 2) is **filed**;


5. Mr. Hailey's Complaint (ECF Doc. No. 2) is **DISMISSED without prejudice** for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii), with leave to pursue claims:

a. On or before **June 24, 2019**, Mr. Hailey may file an amended complaint with facts supporting his claims of sexual abuse at the Montgomery County Correctional Facility, identifying all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint with the basis for his claims against each defendant, including pleading what happened to him and when consistent with today's accompanying Memorandum. The Clerk of Court shall send Mr. Hailey one blank copy of the Court's form complaint to be used by a prisoner filing a civil rights action bearing the above civil action number. Mr. Hailey may complete this form to file his amended complaint in this case if he chooses to amend but the Clerk shall not direct service until further Order;

b. If Mr. Hailey intends to pursue claims based on his 2017 arrest and the seizure and sale of his car, he must timely file a separate case identifying all defendants in the caption and plead the basis for his claims against each defendant relating to his 2017 arrest and seizure/sale of his car. The Clerk of Court shall also send Mr. Hailey one blank copy of the Court's form complaint to be used by a prisoner filing this new civil rights action and a blank copy of the Court's current form application to proceed *in forma pauperis* to be used by a prisoner, neither of which shall include a caption number. Mr. Hailey may complete these forms to file a new case to

pursue the 2017 arrest and car seizure claims if he chooses to do so. To proceed on this new case, Mr. Hailey must also either pay the fees to commence this new case or move for leave to proceed *in forma pauperis* attaching a certified copy of his prisoner account statement showing six months of activity under 28 U.S.C. § 1915(a)(2). If Mr. Hailey pursues these claims in a separate civil action and is granted leave to proceed *in forma pauperis*, he will be obligated to pay this separate filing fee in installments under 28 U.S.C. § 1915(b); and,

6. We may dismiss this case relating to sexual abuse at the Montgomery County Correctional Facility for failure to prosecute without further notice if Mr. Hailey fails to file an amended complaint by **June 24, 2019**.



KEARNEY, J.